

Is there any objection?

In absence of objection, the Chair will regard the modifications as having been made. State the other modification.

DELEGATE MUDD: It does not deal with matter here now, but I would like to do it. It is a matter of style and drafting. On page 7, line 7, section 5.22, change the word "justice" to "judge".

THE CHAIRMAN: Is there any objection? In the absence of objection, in section 5.22, page 7, page 7, change the word "justice" to "judge".

You may proceed, Delegate Mudd.

DELEGATE MUDD: Thank you, Mr. Chairman.

Again ladies and gentlemen of the Committee of the Whole may I direct your attention to section 5.01 through 5.11 dealing with court structure.

Here the Committee on the Judicial Branch accepted its first challenge, that is, accepted the responsibility of upgrading the courts of limited jurisdiction in the State of Maryland. It is generally recognized, and I believe there is no dissent in the State, that to improve administration of justice in our great State the first responsibility is to improve it at the level dealing with the greatest number of people.

Our supporting memorandum has ample facts and figures to convince you, we hope, that at this level of our present court system there is chaos, to say the least.

May I call your attention to a release in the press over the weekend in which an apparently part-time judge in Baltimore County actually cried for help with respect to his court calendar and court facility in that great section of our State.

For those of you who may not have seen the comment in the press the facts were, as I recall, that this part-time judge whose calendar began at 8:00 p.m. found himself faced with something over 150 cases on the calendar that day. The courtroom was crowded and the reporter noted that according to the mandate of the fire marshal only less than 50 people were allowed in the room at the same time. To accommodate his calendar on that date the enforcement officers who were required to be there to testify exceeded the number of people who were allowed in the room at one time.

To me that is typical of the situation which exists in some parts of the State in

trying to administer justice through the present system of courts of limited jurisdiction.

Our proposal very simply adopts the so-called four-tier court structure. I am not able to say that such a four-tier system is now enjoyed by a majority of the states of this Union. On the contrary, the exact court structure recommended by your Committee is in use in very few states. Our Committee considered at some length the possibilities of a three-tier court structure. That would be two appellate courts plus one trial court of general jurisdiction.

It was our considered view, after much research and thought, that the most feasible and practical manner of adopting into a unified uniform court structure the chaotic condition now existing in Maryland in the courts of limited jurisdiction was by adopting in the unified court system the fourth tier, namely the district court, to take over the jurisdiction of the trial magistrates and people's courts and by whatever other name the courts of limited jurisdiction are now operating in the State of Maryland.

Basic to our recommendation is that courts at all levels shall be peopled by judges, full-time judges who are lawyers. We think that without that requirement the situation cannot be improved to meet the expanding case loads and mounting litigation now rising and increasing from day to day in our complex society.

We acknowledge that the proposed court structure does not include in the plan the existing orphans' court system. As some of you may know, there has been a movement and recommendation in the State for years that the probate courts in Maryland identified by the name of orphans' court be done away with. It has been accomplished in one jurisdiction, namely Montgomery County.

Adoption of this Committee Recommendation of a four-tier court system would necessitate the legislature delegating or prescribing the jurisdiction now employed by the orphans' court to probably the superior court, although it could, as we understand it, prescribe concurrent jurisdiction in probate matters as well as juvenile matters in the district court and the superior court. It is the view of the majority of this Committee that the provisions for functional division is the only flexibility, together with that reserved to the legislature to prescribe jurisdiction which is needed to accommodate the judicial needs of this State for the foreseeable future.